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January 2, 1979

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Mrs. Diana S. Dowling
Executive Director
Legislative Council
Room 138 State Capitol
Helena, Montana 59601

Dear Mrs. Dowling:

In accordance with the legislative mandate of Section 82-3310.1 (R.C.M. 1947), the Department of Administration hereby submits the attached report on Fire Protection Services for State owned buildings.

If you should have any questions or need additional information, please feel free to contact me.

Sincerely,

David M Lewis

DAVID M. LEWIS
Director

DEPARTMENT OF ADMINISTRATION

Attachment

cc: Mr. David L. Hunter
Mr. Robert E. Kelly
Mr. Daniel K. Mizner

MONTANA IS AN EQUAL OPPORTUNITY EMPLOYER

A REPORT ON

FIRE PROTECTION SERVICES

FOR

STATE OWNED BUILDINGS

In accordance with the legislative mandate of Section 82-3310.1 MCA [illegible], the Architecture and Engineering Division of the Department of Administration has explored various alternatives for providing fire protection services for state owned buildings that present particular fire fighting problems.

Basic to the degree of fire protection services required is the determination of exactly what does constitute a particular fire fighting problem. Therefore, in order to obtain an interpretation having legal merit, the State Fire Marshall requested an opinion from the Attorney General. In essence, the opinion states that "particular fire fighting problems" are presented to cities in Montana by the fact that the state does not pay the cities for the fire protection services provided state owned buildings. While this interpretation is somewhat more inclusive than many state agencies had anticipated, it was applied consistently with all but one of the following alternatives. In that one case, the approach was much more restrictive regarding the definition of a "particular fire fighting problem".

The alternatives investigated by the Department for the purposes of this report are as follows:

I. Participate in "Fair Share" Costs for Fire Protection of State Buildings.

II. Provide Funds for Fire Protection of State Buildings that are Beyond Local Capabilities.

III. Reimburse Actual Fire Suppression Costs.

IV. Deny Local Authority to Tax State Agencies.

Since a variety of assumptions had to be [illegible] alternatives should be viewed in a [illegible] is not lost in the early discussion stages. For example, the [illegible] applied in Alternative 1 were assumed for a limited number of state [illegible]. This may or may not be acceptable depending upon [illegible] interpretation of the Attorney General's opinion. As such, [illegible] owned buildings as the opinion seems to suggest. However, it does appear to be the most logical approach since the areas having the largest concentration of state facilities will all be protected. In addition, it is consistent with [illegible] suggested by David L. Hunter, the Coordinator of the effort submitted in behalf of cities and towns.

In conclusion, it should be stressed that "fair share" costs for [illegible] is the real question being addressed. These projected costs cover a wide spectrum from no cost at all to well over one half million dollars depending [illegible] particular interest. The following alternatives reflect an [illegible] variety of approaches to the stated problem. However, the decision to [illegible] if the state feels obligated to participate, is simply, "What is fair?"

I. Participate in "Fair Share" Costs for Fire Protection of State Buildings.

This alternative is based on the assumption that particular fire fighting problems exist in cities and towns by the fact that the state does not pay them for the fire protection services provided state owned buildings. While this method is not the most advantageous to the state from a budgeting standpoint, it is the approach favored by the localities most actively involved in pursuing "fair share" costs. This is emphasized by the fact that a breakdown of "fair share" costs for areas experiencing a major impact from state facilities was submitted by Mr. David L. Hunter, who is coordinating their campaign efforts.

The following two sheets entitled "Fair Share Costs for Fire Services" illustrate the basic methodology used by the cities in their cost projections. While the system used to calculate fair share costs, such as shown in the example of Helena, is reasonable, several of the individual totals for estimated fire property value appeared to be inconsistent with the value of the facilities presently owned. Therefore, the list of cities and the corresponding property values as well as fair share costs was redone to reflect the Department of Administration's assessment of state property to be protected.

Although the Department's list includes several more locations than the cities', the "fair share" costs for which the state is responsible are reduced approximately $50,000.00. The difference being, of course, in the determination of state property to be protected and its subsequent value.

It is important to note that neither the city nor the state included all potential state property for cost sharing purposes. As an example, the National Guard Armory

in Sidney is not included [illegible] in smaller communities throughout [illegible] future cost sharing for fire services. As mentioned [illegible] the opinion issued by the Attorney General, all these communities would [illegible] for state funds no matter the number or size [illegible]

Therefore, although the estimated "fair share" [illegible] the major areas of budget consideration there are many other [illegible] smaller communities that are probable in the future.

Another factor which could have major significance concerns the involvement of volunteer or rural Fire Departments. At the present [illegible] complicated requiring individualized attention for each instance, the extent of potential cost requirements is largely unknown. However, there are [illegible] where available information was obtained. For example, both Warm Springs and Galen are currently protected by well organized volunteer Fire Departments at [illegible] cost. On the other hand, both Mountain View School near [illegible] outside Deer Lodge have existing protection through volunteer Fire Departments at annual costs ranging from $200.00 to $2,000.00. Again, it should be remembered that these costs are not included in the "fair share" costs indicated on the following pages and without an intensive effort these additional costs [illegible] estimated. The [illegible] has been established and it is suggested that [illegible] payments and others [illegible] will continue [illegible]

There are many other questions regarding the [illegible] that must be settled [illegible] as protection [illegible] addition to those inside. However, this is the type of detail that [illegible] negotiated after a decision is made regarding the overall approach to fire protection service costs.

FAIR SHARE COSTS FOR FIRE SERVICE

CITY	ESTIMATED STATE PROPERTY VALUE	FAIR SHARE
ANACONDA	$ 284,700.00	$ 2,044.00
BILLINGS	$ 23,242,800.00	$ 72,308.00
BOULDER	$ 9,351,000.00	$ 9,921.00
BOZEMAN	$ 86,673,700.00	$ 156,601.00
BUTTE	$ 12,102,800.00	$ 28,805.00
COLUMBIA FALLS	$ 2,058,800.00	$ 1,789.00
DEER LODGE	$ 589,600.00	$ 339.00
DILLON	$ 10,832,800.00	$ 13,106.00
GLENDIVE	$ 1,267,200.00	$ 2,569.00
GREAT FALLS	$ 4,290,250.00	$ 13,118.00
HAVRE	$ 14,846,000.00	$ 30,149.00
HELENA	$ 38,055,100.00	$ 72,055.00
KALISPELL	$ 708,300.00	$ 2,521.00
LEWISTOWN	$ 3,122,111.00	$ 8,573.00
MILES CITY	$ 4,424,800.00	$ 16,667.00
MISSOULA	$ 64,983,600.00	$ 170,570.00
TWIN BRIDGES	$ 2,373,500.00	$ 5,593.00
TOTAL	$ 279,185,061.00	$ 679,729.00

FAIR SHARE COSTS FOR FIRE [illegible]

The following five steps illustrate the method used to calculate fair share costs for fire services provided to state property. Helena is used as an example. All calculations are based on 1977 - 1978 figures.

1. Using the Schedule of State Properties as of July 1, 1977, prepared by the Department of Administration, Insurance and Legal Division determine the value of all buildings protected by the Fire Department. Figures include building and contents. Because the values shown are 90 percent, divide the total by 0.9 to get full value.

$$\frac{\$\ 38,033,100}{0.9} = \$42,259,000$$

2. Taxable value can be obtained by multiplying this figure by 0.12.

$$\$\ 42,259,000 \times 0.12 = \$\ 5,071,080$$

3. The taxable value of state property plus the taxable value of all other property is the appropriate base for determining fire service costs. This figure multiplied by 0.001 will give the mill value.

$\$\ 28,662,000$ Taxable Value, City of Helena
$+\ \ 5,071,080$ Taxable Value, State Property in Helena
$\$\ 33,733,080$
$\times\ \ 0.001$
$\$\ 33,733$

4. To get the number of mills that should have been levied for fire service this mill value must be divided into your Fire Department Budget.

$\$479,314.00$
$\div\ \ 33,733.00$
$\$\ \ 14.2091$ mills

5. The fair share cost is this number of mills levied against the taxable value of the state property.

$$\$\ 5,071.08 \times 14.2091 = \$72,055.00$$

II. Provide Funds for Fire Protection of State Buildings that are Beyond Local Capabilities.

This alternative, more than any other, exemplifies the fire service problem presented to the 1977 Legislature by concerned local Fire Departments. The problem at that time was the inability of cities and towns to provide adequate fire protection to state owned buildings where particular fire fighting problems exist.

The most prominent example of this situation and the only clearly defined problem presented, was introduced by the Bozeman Fire Department. Since Bozeman is basically a small town without many high-rise structures, it was suggested that a number of buildings at Montana State University, in particular the eleven story dormitories, presented particular problems due to the fact that specialized equipment was necessary in order to adequately protect them in the event of a fire. A discussion followed regarding the responsibility of the state to participate in its "fair share" cost of the fire fighting equipment deemed necessary. The discussion did point out a problem peculiar to this alternative. That is, who will determine the validity of the requests and how will they evaluate them since most will be of a very subjective nature?

Since that time the scope of exactly what defines a particular fire fighting problem has been vastly expanded through an opinion issued by the office of the Attorney General. Now, the mere existence of a state facility together with the fact that the state does not pay the cities and towns for fire protection services constitutes a particular fire fighting problem.

It is apparent that there has been a definite change in the entire perception of the existing problem and in the corresponding solutions to it. Therefore, additional problems as originally perceived have not been submitted by local Fire Departments. Instead of identifying more conditions, such as those presented by Bozeman, cities

and towns relied on the Attorney General's interpretation. [illegible] been impossible to evaluate the potential number [illegible] cities and towns could justify.

In summary, it appears that program costs associated with this [illegible] will be very difficult to predict due to the [illegible] a "particular problem." In other words, only the actual selection [illegible] option will bring forth additional requests similar to those presented to the last Legislature.

III. Reimburse Actual Fire Suppression Costs.

The intent of this alternative is to reimburse cities and towns for the actual cost of fire protection services rendered. Since each fire requires an individual remedy, expenses will vary with the particular situation and cannot be accurately projected or "cataloged". For example, the costs of a Fire Department responding to a false alarm would be minimal, but the costs for responding to a five alarm fire may be quite extensive. However, under this alternative both would require reimbursement.

It is difficult to identify actual costs incurred since City Fire Departments are geared to provide services on a "demand basis", not on a "reimbursement for services basis". Together with the inability to predict the number and extent of future fires, it is nearly impossible to arrive at a figure for actual fire suppression costs. In the event that this alternative was favored, it would be necessary for the state to negotiate with the individual cities and towns to determine the actual expenses. This amount will vary widely since the costs relate directly to the particular fire as well as the individual Fire Department budget.

While particular costs cannot be provided, a recap of state insurance losses experienced from 1962 to July 1978 is available. The majority of losses were fire related even though the following information includes claims for hail and wind damage.

FIRE AND EXTENDED COVERAGES INSURANCE
FOR PERIOD 1962 - 1974

Policy Term	Total Insurance	Premium Paid	No. of Losses	Losses Paid	Loss Ratio
'62-'65	$120,226,300.00	$ 632,812.27	[illegible]	[illegible]	[illegible]

FIRE AND EXTENDED COVERAGES INSURA[illegible]

Policy Term	Total Insurance	Premium Paid	No. of Losses	Losses Paid	% Ratio
'65-'68	$135,534,800.00	$ 754,038.72	[illegible]	$[illegible]	[illegible]
'68-'71	$150,989,710.00	$1,072,[illegible]	[illegible]	[illegible]	
'71-'74	$221,780,0[illegible]	$1,[illegible]	[illegible]	[illegible]	[illegible]
'74-'75	$277,587,500.00	$ 337,028.00	2[illegible]	$179,[illegible]	[illegible]
'75-'76	$298,224,700.00	$ 344,75[illegible].00	[illegible]	$431,[illegible]	[illegible]
'76-'77*	$361,050,800.00	$ 426,052.00	[illegible]	$ [illegible]	[illegible]
'77-'78	$394,629,300.00	$ 465,[illegible]	[illegible]	$ [illegible]	[illegible]

*The increase in values and resulting increase in premium is partially a[illegible]ed for by a change in the Indemnity Agreement requiring 100% insurable values rather than the 90% formerly used.

The table does not provide data necessary to reach any specific [illegible] conclusion other than that losses are indeed unpredictable. The [illegible] (losses collected / premium paid) ranges from a high of 125% in fiscal 1976 [illegible] 10% in fiscal 1977. Obviously, the reimbursement costs [illegible] accordingly.

While this particular alternative would not [illegible] of a "fair share" solution, it would require the Legislature to authorize [illegible] a sizeable reserve which could sufficiently pay all potential losses. [illegible]ion, as well as the two preceding ones, recognizes the right [illegible] to receive compensation for fire protection provided [illegible] buildings.

IV. Deny Local Authority to Tax State Agencies

This alternative, while maintaining the status quo from the state's point of view, is becoming increasingly unpopular with representatives of cities and towns. Accordingly, a solution to the question of fire protection services which includes this approach as the basis will no doubt receive many objections from communities throughout the state.

Historically, the state, through the powers invested in the Legislature, has demonstrated the authority to exempt itself from taxation. Therefore, it appears that pursuit of this alternative is entirely within the legal limitations of the state as documented in Article VIII, Section 5, of the State Constitution. Since the fire "services" under question have been funded by the private sector over the years as tax liability and not as a city service, it stands to reason that this is a proposed taxation of state property as well. Thus the probable argument of legality.

If the state should maintain its position and deny local authority to tax state agencies, the possible reactions by cities and towns might be to withdraw services. Assuming this happens, and there are people suggesting that it would, there are ramifications which warrant consideration.

First of all, there exists a real legal question regarding the responsibilities of the city and its Fire Department in the event fire protection services are actually needed. For instance, if a major fire was to break out at the state capitol and the local Fire Department refused to respond, the state could challenge their liability under the Tort Claims Act. There is also a moral question where human life is endangered.

Another ramification, potentially quite [illegible] is the [illegible] that [illegible] of protection services [illegible] adversely [illegible] insurance rates [illegible] owned buildings. At present the annual property insurance premium paid by the state for coverage of approximately $395,000,000.00 worth of buildings and contents is $472,000.00. The Insurance and Legal Division [illegible] the Department of Administration estimates that this premium could increase by 50% to 100% on [illegible], if insurance would be available at any cost. An additional problem (and cost) might arise requiring the involvement of more insurance companies since all companies have limited capacity to insure unprotected risks.

In the event that insurance was simply not available, the option of self-insurance would, out of necessity, become quite prominent. Although this is a subject far and beyond the scope of this report, several items deserve mention. To completely self-insure state property would require a sizeable reserve to adequately pay all expected losses [illegible] at least enough to handle a potential catastrophe such as the loss of a major building. This presents a problem since existing [illegible] committed to funding the general liability self-insurance plan as well as several [illegible] insurance programs. A thorough analysis regarding the feasibility of [illegible] insurance program was completed by an interim committee of the Legislative Council as assigned by the 1969 Legislature. The reports would still be valid and should be [illegible] at the office of the Legislative Council.

Another possibility if the cities should [illegible] service is the [illegible] state operated fire facilities to provide the [illegible] could be done, it does not appear to be realistic from an economic [illegible]. Consideration of the costs involved for equipment, facilities, personnel and continuing operation of such a program would strongly indicate that this [illegible]

approach would be [illegible] and [illegible].

In conclusion it should be stressed that this alternative [illegible] supporting the state's position since it follows existing Constitutional law. However, adoption of this alternative will be opposed by some local governments and the potential consequences should be thoroughly studied and evaluated before a decision is made.